THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.497 OF 2007

DATED 01-03-2007

Between:

M/s.Vamshi Art Printers (P) Ltd.,
Hyderabad.

…**Petitioner**

And

1.Commercial Tax Officer,
Basheerbagh Circle,
Hyderabad, and 3 others.

…**Respondents**

The Hon'ble Sri Justice Bilal Nazki

and

The Hon'ble Sri Justice Nooty Ramamohana Rao

Writ Petition No.497 of 2007

O R D E R *(Per the Hon'ble Sri Justice Bilal Nazki):*

Heard the learned Counsel for the parties.

The grievance of the petitioner is that the revision order dated 23-1-2006 passed by the second respondent-Deputy Commissioner is an order which has not been actually passed on 23-01-2006 and it is only predated somewhere in November, 2006.

The original assessment had been made on 28-02-2002 and the order of assessment was served on the petitioner on 09-03-2002. The revision of the assessment order could be made in accordance with the provisions of the Sales Tax Act within four years. So, in any case, the revision order should have been passed by the second respondent on or before 8th March, 2006. The order bore the date '23-01-2006'. However, the petitioner was served with an order on 29th November, 2006. These facts are undisputed.

The case of the petitioner is that the revision order was actually passed after 8th March, 2006 and it was
pre-dated as 23-01-2006.

The learned Counsel for the petitioner submits that the office of the respondents is situated in the vicinity of the office of the petitioner-company. Had the order been passed on 23-01-2006, it would not have taken more than
10 months for the respondents to serve the same on the petitioner. Therefore, it is unbelievable that the order could not be served for 10 months.

Counter-affidavit has been filed by the second respondent-Deputy Commissioner (CT), but, no explanation, whatsoever, has been given for serving the revision order after 10 months of having been passed. The only sentence in Para 7 by way of explanation is,

> 'However, there is some delay in serving the order by the assessing authority'.

Nowhere the explanation has been given as to why it took ten months for the second respondent-Deputy Commissioner to serve the order. Therefore,

this Court would be just in believing that the order had not been passed on 23-01-2006 and it had been passed much later. Such a presumption can be drawn in the absence of any explanation on behalf of the respondent-authorities for not serving the order. Earlier, this Court has taken the same view in a judgment reported in ***Sanka Agencies v. Commissioner of Commercial Taxes, Hyderabad***[1] and the same view was taken by the Supreme Court also in ***State of Andhra Pradesh v. M.Ramakishtaiah & Co.***[2]

Following those judgments, we allow the Writ Petition and quash the order passed by the second respondent in Rc.No.3442/2000-01/APGST, dated 23-01-2006. No costs.

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(***Bilal Nazki, J***)

Dated 1st March, 2007

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(***Nooty Ramamohana Rao,J***)

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[1] **(2005) 142 STC 496**

[2] **(1994) 93 STC 406**